

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5765 of 2006

Date of Decision: 2.11.2006

Tejpal Singh

...Petitioner

Vs.

Tarlochan Singh & Ors.

...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Nakul Sharma, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order passed by the learned court below rejecting an application moved by the petitioner under Order 6 Rule 17 of the Code of Civil Procedure for the amendment of the written statement of the suit.

The petitioner in the suit had claimed that he was co-owner in exclusive possession of land measuring 79 Kanals 11 Marlas situated in village Pir Ismail Khan Tehsil and District Ferozepur, free from all encumbrance. He also challenged the entries made in the revenue record regarding the mortgage property by defendant No.1 who is also co-owner of the petitioner. Prior to the filing of the suit, the petitioner filed objection petition in the execution application which was dismissed. When the case was at the stage of rebuttal evidence and arguments the present

application was filed for amendment of the plaint to raise a plea that defendant No.1 besides being co-owner in the disputed property also owned other property which could be sold in execution of decree and in case the decree was not satisfied then only the land in possession of the petitioner could be sold.

I have considered the arguments raised by the learned counsel for the petitioner and find no force in the same. The property sought to be sold is the one mortgaged with the bank as security for the loan and therefore, it is not open to the petitioner to seek amendment which is otherwise contrary to law.

The learned Trial Court had further come to the conclusion that the amendment now sought was within the knowledge of the petitioner when the suit was filed and therefore, the amendment could not be allowed at this belated stage which changes the very nature of the suit, which was originally filed.

No ground is made out which may call for interference by this Court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

2.11.2006
rp